

**RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
BOARD FOR LICENSING HEALTH CARE FACILITIES
DIVISION OF HEALTH CARE FACILITIES**

**CHAPTER 1200-8-25
STANDARDS FOR ASSISTED-CARE LIVING FACILITIES**

TABLE OF CONTENTS

1200-8-25-.01	Definitions	1200-8-25-.08	Life Safety
1200-8-25-.02	Licensing Procedures	1200-8-25-.09	Infectious and Hazardous Waste
1200-8-25-.03	Disciplinary Procedures	1200-8-25-.10	Records and Reports
1200-8-25-.04	Administration	1200-8-25-.11	Resident Rights
1200-8-25-.05	Admissions, Discharges, and Transfers	1200-8-25-.12	Policies and Procedures for Health Care Decision-Making for Incompetent Residents
1200-8-25-.06	Personal Services		
1200-8-25-.07	Building Standards	1200-8-25-.13	Disaster Preparedness

1200-8-25-.01 DEFINITIONS.

- (1) Activities of Daily Living (ADL's). Those personal functional activities which indicate an individual's independence in eating, dressing, personal hygiene, bathing, toileting, and moving from one place to another.
- (2) Administer. The direct application of a drug to a resident by injection, inhalation, ingestion, topical application or by any other means.
- (3) Advanced Directive. A written statement such as a living will, a durable power of attorney for health care or a do not resuscitate order relating to the provision of health care when the individual is incapacitated.
- (4) Aged. A person who is sixty-two (62) years of age or older.
- (5) Ambulatory. The resident's ability to bear weight, pivot and safely walk with the use of a cane, walker, or other mechanical supportive device with or without minimal assistance of another person. A resident who requires a wheelchair must be capable of transferring to and propelling the wheelchair independently for purposes of life safety evacuation; otherwise, a resident who requires a wheelchair may receive assistance to transfer and with any other activity of daily living.
- (6) Assisted-Care Living Facility (ACLF). A building, establishment, complex or distinct part thereof which accepts primarily aged persons for domiciliary care and provides on site to its residents room, board, non-medical living assistance services appropriate to the residents' respective needs, and medical services as prescribed by each resident's treating physician, limited to the extent not covered by a physician's order to a home care organization and not actually provided by a home care organization. An ACLF may directly provide such medical services as medication procedures and administration that are typically self-administered, limited to oral medications, topicals, suppositories and injections (excluding intravenous) pursuant to a physician's order, and emergency response. All other services (part-time or intermittent nursing care, physical, occupational and speech therapy, medical social services, medical supplies other than drugs and biologicals, and durable medical equipment) that a home care organization is licensed to provide may be provided in the facility only by a licensed home care organization, except for home health aide services, or by the appropriate licensed staff of a nursing home if the assisted care living facility is located on the same physical campus as the licensed nursing home, in which case the assisted care living facility shall provide the individual with written notice that such services may be available to the individual as a Medicare benefit through a licensed home care organization.

(Rule 1200-8-25-.01, continued)

- (7) **Assisted-Care Living Facility Resident.** Primarily an aged ambulatory person who requires domiciliary care and who may require non-medical living assistance services, medical services such as medication procedures and administration of medications that are typically self-administered, emergency response services, and home care organization services as prescribed by a physician's order and as allowed by law. Except as permitted in these rules, section 1200-8-25-.05, a person shall not be admitted or continue to reside in an ACLF if the person is in the latter stages of Alzheimer's disease or related disorders, requires physical or chemical restraints, poses a serious threat to himself or herself or others, or requires nasopharyngeal and tracheotomy aspiration, initial phases of a regimen involving administration of medical gases, a nasogastric tube, gastrostomy feedings, or arterial blood gas monitoring, is unable to communicate his or her needs, requires intravenous or daily intramuscular injections or intravenous feedings, insertion, sterile irrigation and replacement of catheters (except for routine maintenance of Foley catheters), sterile wound care, or treatment of extensive stage 3 or 4 decubitus ulcer or exfoliative dermatitis
- (8) **Board.** The Tennessee Board for Licensing Health Care Facilities.
- (9) **Cardiopulmonary Resuscitation (CPR).** The administering of any means or device to restore or support cardiopulmonary functions in a resident, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilators or respirations, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a resident where cardiac or respiratory arrest has occurred or is believed to be imminent.
- (10) **Commissioner.** The Commissioner of the Tennessee Department of Health or his or her authorized representative.
- (11) **Communication of Needs.** Any effective method, verbal or nonverbal, of expressing or exchanging information or query in a mutually understandable form.
- (12) **Competent.** A person who is able to understand and appreciate the nature and consequences of a decision to accept or refuse treatment.
- (13) **Corrective Action Plan/Report.** A report filed with the department by the facility after reporting an unusual event. The report must consist of the following:
 - (a) the action(s) implemented to prevent the reoccurrence of the unusual event,
 - (b) the time frames for the action(s) to be implemented,
 - (c) the person(s) designated to implement and monitor the action(s), and
 - (d) the strategies for the measurements of effectiveness to be established.
- (14) **Decision-making capacity.** Decision-making capacity is shown by the fact that the person is able to understand the proposed procedure, its risks and benefits, and the available alternative procedures.
- (15) **Department.** The Tennessee Department of Health.
- (16) **Dietitian.** A person currently licensed as such by the Tennessee Board of Dietitian/Nutritionist Examiners.
- (17) **Distinct Part.** A unit or part thereof that is organized and operated to give a distinct type of care within a larger organization which renders other types or levels of care. Distinct denotes both organizational

(Rule 1200-8-25-.01, continued)

and physical separateness. A distinct part ACLF must be physically identifiable and be operated distinguishably from the rest of the institution. It must consist of all the beds within that unit such as a separate building, floor, wing or ward. Several rooms at one end of a hall or one side of a corridor is acceptable as a distinct part ACLF.

- (18) Do Not Resuscitate (DNR) Order. An order entered by the resident's treating physician in the resident's medical record which states that in the event the resident suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted. The order may contain limiting language to allow only certain types of cardiopulmonary resuscitation to the exclusion of other types of cardiopulmonary resuscitation.
- (19) Emergency. Any situation or condition which presents an imminent danger of death or serious physical or mental harm to residents.
- (20) Evacuation Capability. The ability to either evacuate the building or move to a point of safety.
- (21) Extensive Stage 3 Decubitus. A lesion, ischemic ulceration and/or necrosis of tissue with infection or sinus tract formation overlying a bony prominence caused by unrelieved pressure, friction or shear where a full thickness of skin is lost exposing the subcutaneous tissues which presents clinically as a deep crater or greater than five (5) centimeters in diameter with or without undermining of adjacent tissue.
- (22) Health care decision. A decision made by an individual or the individual's health care decision-maker, regarding the individual's health care including but not limited to:
 - (a) the selection and discharge of health-care providers and institutions;
 - (b) approval or disapproval of diagnostic tests, surgical procedures, programs of administration of medication, and orders not to resuscitate;
 - (c) directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care; and
 - (d) transfer to other health care facilities.
- (23) Health Care Decision-maker. In the case of an incompetent resident, or a resident who lacks decision-making capacity, the resident's health care decision-maker is one of the following: the resident's health care agent as specified in an advance directive, the resident's court-appointed legal guardian or conservator with health care decision-making authority, or the resident's surrogate as determined pursuant to Rule 1200-8-25-.12 or T.C.A. §33-3-220.
- (24) Holding Out to the Public. Advertising or soliciting the public through the use of personal, telephone, mail or other forms of communication to provide information about services provided by the facility.
- (25) Incompetent. A patient who has been adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.
- (26) Infectious Waste. Solid or liquid wastes which contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host could result in an infectious disease.
- (27) Lacks Decision-Making Capacity. Lacks Decision-Making Capacity means the factual demonstration by the attending physician and the medical director, or the attending physician and another physician that an individual is unable to understand:

(Rule 1200-8-25-.01, continued)

- (a) A proposed health care procedure(s), treatment(s), intervention(s), or interaction(s);
 - (b) The risks and benefits of such procedure(s), treatment(s), intervention(s) or interaction(s); and
 - (c) The risks and benefits of any available alternative(s) to the proposed procedure(s), treatment(s), intervention(s) or interaction(s).
- (28) **Latter Stages.** The third stage of a three stage disease.
- (29) **Legal Guardian.** Any person authorized to act for the resident pursuant to any provision of T.C.A. §§34-5-102(4) or 34-11-101, or any successor statute thereto.
- (30) **Licensed nurse.** A person currently licensed as such by the Tennessee Board of Nursing.
- (31) **Licensee.** The person or body to whom the license is issued. The licensee is held responsible for compliance with all rules and regulations.
- (32) **Life Threatening Or Serious Injury.** Injury requiring the patient to undergo significant additional diagnostic or treatment measures.
- (33) **Medical Record.** Documentation of medical histories, nursing and treatment records, care needs summaries, physician orders, and records of treatment and medication ordered and given which must be maintained by the facility, regardless of whether such services are rendered by facility staff or by arrangement with an outside source.
- (34) **NFPA.** The National Fire Protection Association.
- (35) **Patient Abuse.** Patient neglect, intentional infliction of pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable state law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.
- (36) **Personal Services.** Those services that are rendered to residents who need supervision or assistance in activities of daily living. Personal services do not include nursing or medical care.
- (37) **Primarily Aged.** A minimum of fifty-one per cent (51%) of the population of the facility is at least sixty two (62) years of age.
- (38) **Registered Nurse.** A person currently licensed as such by the Tennessee Board of Nursing.
- (39) **Responsible Attendant.** The person designated by the licensee to provide personal services to the residents. In the absence of the licensee, the responsible attendant is responsible for ensuring that the ACLF complies with all rules and regulations.
- (40) **Secured Unit.** A facility or distinct part of a facility where the residents are intentionally denied egress by any means.
- (41) **Social Worker.** A person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education and has at least one (1) year of social work experience in a health care setting.

(Rule 1200-8-25-.01, continued)

- (42) Unusual Event. The abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury to a patient that is not related to a natural course of the patient's illness or underlying condition.
- (43) Unusual Event Report. A report form designated by the department to be used for reporting an unusual event.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, and 68-11-213. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed April 11, 2003; effective June 25, 2003. Amendment filed April 28, 2003; effective July 12, 2003.

1200-8-25-.02 LICENSING PROCEDURES.

- (1) No person, partnership, association, corporation, or any state, county or local government unit, or any division, department, board or agency thereof shall establish, conduct, operate, or maintain in the State of Tennessee any assisted-care living facility without having a license. A license shall be issued to the person or persons named and for the premises listed in the application for licensure. Licenses are not transferable or assignable and shall expire annually on June 30th. The license shall be conspicuously posted in the facility.
- (2) In order to make application for a license:
 - (a) The applicant shall submit an application on a form prepared by the department.
 - (b) Each applicant for a license shall pay an annual license fee based on the number of ACLF beds. The fee must be submitted with the application and is not refundable.
 - (c) The issuance of an application form is in no way a guarantee that the completed application will be accepted or that a license will be issued by the department. Residents shall not be admitted to the facility until a license has been issued. Applicants shall not hold themselves out to the public as being an ACLF until the license has been issued. A license shall not be issued until the facility is in substantial compliance with these rules and regulations.
 - (d) The applicant must prove the ability to meet the financial needs of the facility.
 - (e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.
- (3) A proposed change of ownership, including a change in a controlling interest, must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the new license may be issued.
 - (a) For the purpose of licensing, the licensee of an ACLF has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of the facility's operation is transferred.
 - (b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.

(Rule 1200-8-25-.02, continued)

- (c) Transactions constituting a change of ownership include, but are not limited to, the following:
 - 1. Transfer of the facility's legal title;
 - 2. Lease of the facility's operations;
 - 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
 - 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 - 5. Removal of the general partner or general partners, if the facility is owned by a limited partnership;
 - 6. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
 - 7. The consolidation of a corporate facility owner with one or more corporations; or,
 - 8. Transfers between levels of government.
 - (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:
 - 1. Changes in the membership of a corporate board of directors or board of trustees;
 - 2. Two (2) or more corporations merge and the originally-licensed corporation survives;
 - 3. Changes in the membership of a non-profit corporation;
 - 4. Transfers between departments of the same level of government; or,
 - 5. Corporate stock transfers or sales, even when a controlling interest.
 - (e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.
 - (f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner.
- (4) Each ACLF, except those operated by the U.S. Government or the State of Tennessee, making application for license under this chapter, shall pay annually to the department a fee based on the number of ACLF beds, as follows:
- (a) Less than 25 beds \$ 600.00
 - (b) 25 to 49 beds, inclusive \$ 800.00
 - (c) 50 to 74 beds, inclusive \$ 950.00
 - (d) 75 to 99 beds, inclusive \$ 1,100.00

(Rule 1200-8-25-.02, continued)

- (e) 100 to 124 beds, inclusive \$ 1,250.00
- (f) 125 to 149 beds, inclusive \$ 1,400.00
- (g) 150 to 174 beds, inclusive \$ 1,550.00
- (h) 175 to 199 beds, inclusive \$ 1,700.00

For ACLF's of two hundred (200) beds or more the fee shall be one thousand seven hundred dollars (\$1,700.00) plus one hundred fifty dollars (\$150.00) for each twenty-five (25) beds or fraction thereof in excess of one hundred ninety-nine (199) beds. The fee shall be submitted with the application or renewal and is not refundable.

- (5) To be eligible for a license or renewal of a license, each ACLF shall be periodically inspected for compliance with these regulations. If deficiencies are identified, an acceptable plan of correction must be submitted.
- (6) If the licensee is in disagreement with the deficiencies cited, he/she has one opportunity to question them through an informal dispute resolution process. A written request which includes the specific deficiencies being disputed and an explanation of why they are being disputed must be submitted during the same ten (10) day period as the plan of correction for the cited deficiencies. An incomplete informal dispute resolution process will not delay the effective date of any enforcement action.
- (7) A license shall be issued only for the location designated and the licensee named in the application. If a facility moves to a new location, a new license will be required before residents are admitted. A licensee who plans to relocate must contact the department to inspect the new building prior to relocation.
- (8) Any admission in excess of the licensed bed capacity is prohibited.
- (9) A separate license shall be required for each ACLF when more than one facility is operated under the same management or ownership.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-210, and 68-11-216.
Administrative History: Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 19, 2003; effective February 2, 2004.

1200-8-25-.03 DISCIPLINARY PROCEDURES.

- (1) The board may suspend or revoke a license for:
 - (a) Violation of state statutes;
 - (b) Violation of the rules as set forth in this chapter;
 - (c) Permitting, aiding or abetting the commission of any illegal act in the facility;
 - (d) Conduct or practice found by the board to be detrimental to the health, safety, or welfare of the residents of the assisted care living facility; and
 - (e) Failure to renew license.

(Rule 1200-8-25-.03, continued)

- (2) The board may consider all factors which it deems relevant, including but not limited to the following when determining sanctions:
 - (a) The degree of sanctions necessary to ensure immediate and continued compliance;
 - (b) The character and degree of impact of the violation on the health, safety and welfare of the residents in the facility;
 - (c) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the violation; and,
 - (d) Any prior violations by the facility of statutes, regulations or orders of the commissioner or the board.
- (3) When an assisted care living facility is found by the department to have committed a violation of this chapter, the department will issue to the facility a statement of deficiencies. Within ten (10) days of receipt of the statement of deficiencies, the facility must return a plan of correction including the following:
 - (a) How the deficiency will be corrected;
 - (b) The date upon which each deficiency will be corrected;
 - (c) What measures or systemic changes will be put in place to ensure that the deficient practice does not recur; and
 - (d) How the corrective action will be monitored to ensure that the deficient practice does not recur.
- (4) Either failure to submit a plan of correction in a timely manner or a finding by the department that the plan of correction is unacceptable shall subject the assisted care living facility's license to possible disciplinary action.
- (5) Following a contested case hearing, the board may find a facility's license subject to suspension or revocation and may then immediately impose any sanction authorized by law.
- (6) The department may assess a civil penalty:
 - (a) Not to exceed five thousand dollars (\$5,000) against any person or entity operating an ACLF without having the license required by these regulations. Each day of operation is a separate violation.
 - (b) Beginning one hundred eighty (180) days after the effective date of these regulations, not to exceed three thousand dollars (\$3,000), against any licensed ACLF for admitting or retaining residents not meeting the definition of an ACLF resident set forth in these regulations. Each inappropriately placed resident shall constitute a separate violation.
- (7) A contested case hearing shall be held by the board upon appeal by a facility penalized according to paragraph (6) of this section.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-208, 68-11-209, and 68-11-213.

Administrative History: Original rule filed February 9, 1998; effective April 25, 1998.

1200-8-25-.04 ADMINISTRATION.

- (1) The licensee shall be at least eighteen (18) years of age, of reputable and responsible character, able to comply with these rules, and must maintain financial resources and income sufficient to provide for the needs of the residents, including their room, board, and personal services.
- (2) The licensee must designate in writing a capable and responsible person to act on administrative matters and to exercise all the powers and responsibilities of the licensee as set forth in this chapter in the absence of the licensee.
- (3) Each ACLF must have an administrator who shall be certified by the board, unless the administrator is currently licensed in Tennessee as a nursing home administrator as required by *T.C.A. §§ 63-16-101, et seq.*
- (4) An applicant for certification as an ACLF administrator shall meet the following requirements:
 - (a) Must be a high school graduate or the holder of a general equivalency diploma.
 - (b) Must not have been convicted of a criminal offense involving the abuse or intentional neglect of an elderly or vulnerable individual.
 - (c) Must submit an application, on a form provided by the department, and a fee of one hundred eighty dollars (\$180) prior to issuance or renewal of a certificate. All certificates shall expire biennially on June 30, thereafter.
 - (d) Biennial renewal of certification is required. The renewal application and fee of one hundred eighty dollars (\$180) shall be submitted with written proof of attendance, during the period prior to renewal, of at least twenty-four (24) classroom hours of continuing education courses approved by the board. The initial biennial re-certification expiration date of Assisted-Care Living Facility administrator candidates who receive their initial administrator certification between the dates of January 1 and June 30 of any year will be extended to two (2) years plus the additional months remaining in the fiscal year. This extension applies only to the first biennial certification period for any such administrator and may only be applied when there are less than six (6) months remaining in the State fiscal year.
 1. The twenty-four (24) hours of required continuing education courses shall include instruction in the following:
 - (i) State rules and regulations for homes for the aged/ACLF's;
 - (ii) Health care management;
 - (iii) Nutrition and food service;
 - (iv) Financial management; and,
 - (v) Healthy lifestyles.
 2. All educational courses sponsored by the National Association of Boards of Examiners for Nursing Home Administrators (NAB) and continuing education approved courses sponsored by State and/or national associations that focus on geriatric care are board approved.
 3. In order to obtain board approval for educational courses, a copy of the course curriculum must be submitted to the board for approval prior to attending the course.

(Rule 1200-8-25-.04, continued)

4. Proof of administrator certification course attendance shall be submitted to the department upon completion of the course.
- (5) Each ACLF must:
 - (a) Have an identified responsible attendant and a sufficient number of employees to meet the needs, including medical services as prescribed, of the residents. The responsible attendant and direct care staff must be at least eighteen (18) years of age and able to comply with these rules.
 - (b) Have a licensed nurse available as needed.
 - (c) Not employ any person or have any attendant who is listed on the department's Abuse Registry.
 - (d) Have a written statement of policies and procedures outlining the responsibilities of the licensee to the residents and any obligation of the residents to the facility.
 - (e) Keep a written up-to-date log of all residents and produce the log for the local fire department in the event of an emergency.
 - (f) Have written policies and procedures informing the resident how to register grievances and complaints.
 - (g) Not allow an owner, responsible attendant, employee or representative thereof to act as a court-appointed guardian, trustee, or conservator for any resident of the facility or any of such resident's property or funds, except as provided by rule 1200-8-25-.11(9).
 - (h) Cooperate during inspections conducted by the Department, including allowing entry at any hour and providing all required records.
 - (i) Ensure that there is an effective facility-wide performance improvement program. The facility must develop and implement a plan for improvement, address deficiencies identified by a performance improvement program and document the outcome for remedial action.
 - (j) Whenever these rules and regulations require that a licensee develop a written policy, plan, procedure, technique or system concerning a subject, the licensee shall develop the required policy, maintain it, and adhere to its provisions. A facility which violates a required policy also violates the rules and regulations establishing the requirement. Licensed ACLF's must follow all policies, plans, procedures, techniques, or systems whose development is required by these rules.
 - (k) Not retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the board, the department, the Adult Protective Services, or the Comptroller of the State Treasury. A facility shall neither retaliate nor discriminate, because of information lawfully provided to these authorities, because of a person's cooperation with them, or because a person is subpoenaed to testify at a hearing involving one of these authorities.
 - (l) Allow pets in the facility only when they are not a nuisance or do not pose a health hazard and when plans for their management have been approved by the department.
 - (m) Comply with all local laws, rules or ordinances, and with the rules and regulations of this chapter.

(Rule 1200-8-25-.04, continued)

- (6) No occupant or employee who has a reportable communicable disease, as stipulated by the department, is permitted to reside or work in an ACLF unless the ACLF has a written protocol approved by the department.
- (7) Any licensee or applicant for a license, aggrieved by a decision or action of the department or board, pursuant to this chapter, may request a hearing before the board. The proceedings and judicial review of the board's decision shall be in accordance with the Uniform Procedures Act, *T.C.A. §§4-5-101, et seq.*

Authority: *T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. Administrative History: Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed September 21, 2001; effective December 5, 2001.*

1200-8-25-.05 ADMISSIONS, DISCHARGES, AND TRANSFERS.

- (1) Only ACLF residents whose needs can be met by the facility within its licensure category shall be admitted. An appropriate ACLF resident is primarily an aged ambulatory person who requires domiciliary care and who may require non-medical living assistance services, medical services such as medication procedures and administration of medications that are typically self-administered, emergency response services, and home care organization services as prescribed by a physician's order and as allowed by law.
- (2) Except as provided in 1200-8-25-.05(3) and 1200-8-25-.05(5), an assisted care living facility shall not admit nor permit the continued stay of any assisted-care living facility resident if any of the following conditions exists. The person:
 - (a) Is in the latter stage of Alzheimer's disease or related disorders;
 - (b) Requires physical or chemical restraints;
 - (c) Poses a serious threat to himself or herself or others;
 - (d) Requires nasopharyngeal and tracheotomy aspiration;
 - (e) Requires initial phases of a regimen involving administration of medical gases;
 - (f) Requires a Levin (or nasogastric) tube;
 - (g) Requires arterial blood gas monitoring;
 - (h) Is unable to communicate his or her needs;
 - (i) Requires gastrostomy feedings;
 - (j) Requires intravenous or daily intramuscular injections or intravenous feeding;
 - (k) Requires insertion, sterile irrigation and replacement of catheters, except for routine maintenance of Foley catheters;
 - (l) Requires sterile wound care; or,
 - (m) Requires treatment of extensive stage 3 or stage 4 decubitus ulcer or exfoliative dermatitis.

(Rule 1200-8-25-.05, continued)

- (3) So long as (1) a person does not otherwise fall outside the definition of an assisted care living facility resident, and (2) the person's medical condition and overall health status are stable, and (3) the person is able to care for their condition without the assistance of facility personnel or home health care, and (4) the person has a documented history of self-care for their medical condition for at least one (1) year, which is documented by the patient's treating physician and made part of their medical record, then any assisted-care living facility may accept for admission and allow the continued stay of such person who:
 - (a) has in place a gastrostomy tube or percutaneous endoscopic gastrostomy tube;
 - (b) requires a nasopharyngeal suctioning or has a tracheostomy tube;
 - (c) has in place a catheter that is their sole physical means of elimination of waste; or
 - (d) requires the routine administration of oxygen; provided, however, with respect to this requirement, no such documented history of self-care for a person's medical condition for at least one (1) year shall be required for the continued stay of an assisted living facility resident.
- (4) If any person admitted to an assisted care living facility under paragraph (3) above no longer meets the requirements listed above and/or is no longer able to self care for their medical condition, the assisted care living facility must transfer the person immediately to a licensed nursing home or hospital. However, this requirement shall not be construed to prevent facility staff from responding to an emergency situation.
- (5) A resident of an ACLF with any of the conditions listed in (a), (b), or (c) of this paragraph may be retained by the ACLF for a period not to exceed twenty-one (21) days. A resident may continue as a resident in the facility for an additional twenty-one (21) day period if, within the first twenty-one (21) days (or by the first business day thereafter, if the twenty-first day falls on a weekend or holiday), or earlier if the need for an extension becomes apparent to the facility, the extension of the initial twenty-one (21) day period is approved by the commissioner of health, or the commissioner's designee, so long as the individual approving the extension is a physician licensed in Tennessee. The Department must respond to a request for an extension of stay within five (5) working days of its receipt of an extension request.
 - (a) The person requires intravenous or daily intramuscular injections or intravenous feedings;
 - (b) The person requires insertion, sterile irrigation and replacement of catheters, except for routine maintenance of Foley catheters; or
 - (c) The person requires sterile wound care.
- (6) Requests to the Department for twenty-one (21) day extensions shall be:
 - (a) Made in writing and transmitted by mail or fax within two (2) business days of the date that the need for an extension becomes apparent to the facility; and
 - (b) Include a detailed summary of the resident's condition.
- (7) Under no circumstances shall a person be eligible to continue as an assisted care living facility resident if after the twenty-one (21) day period the resident requires four (4) or more skilled nursing visits per week for conditions other than those listed in paragraph (5) of this rule.
- (8) The ACLF must:

(Rule 1200-8-25-.05, continued)

- (a) Be able to identify at the time of admission and during continued stay those residents whose needs for services are consistent with these rules and regulations, and those residents who should be transferred to a higher level of care.
- (b) Have a written admission agreement that includes a procedure for handling the transfer or discharge of residents and that does not violate the residents' rights under the law or these rules.
- (c) Have an accurate written statement regarding fees and services which will be provided upon admission.
- (d) Give a thirty (30) day notice to all residents before any changes in fee schedules can be made.
- (e) Ensure that residents see a physician for acute illness or injury and are transferred in accordance with any physician's orders.
- (f) The facility shall document evidence of annual vaccination against influenza for each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccine, unless such vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccination for all residents accepting the vaccine shall be completed by November 30 of each year or within ten (10) days of the vaccine becoming available. Residents admitted after this date during the flu season and up to February 1, shall as medically appropriate, receive influenza vaccination prior to or on admission unless refused by the resident.

The facility shall document evidence of vaccination against pneumococcal disease for all residents who are sixty-five (65) years of age or older, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control at the time of vaccination, unless such vaccination is medically contraindicated or the resident has refused offer of the vaccine. The facility shall provide or arrange the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine.

- (g) Provide to the resident at the time of admission a copy of the Resident's Rights for the resident's review and signature. A signed copy must be provided to the resident at the time of admission.
 - (h) Have written policies and procedures to assist residents in the proper development, filing, modification and rescission of an advanced directive, a living will, a do-not-resuscitate order, and the appointment of a durable power of attorney for health care.
- (9) Resident who cannot evacuate within thirteen (13) minutes may be retained in the facility so long as such residents are retained in designated areas in accordance with Chapter 12 of the 1997 edition of the NFPA Life Safety Code and Institutional Unrestrained Occupancy of the Standard Building Code.
 - (10) Persons in all but the latter stages of Alzheimer's Disease and Related Disorders may be admitted only after it has been determined by an interdisciplinary team consisting of, at a minimum, a physician experienced in the treatment of Alzheimer's Disease and Related Disorders, a social worker, a registered nurse, and a family member (or patient care advocate) that care can appropriately and safely be given in the facility. The interdisciplinary team must review such persons at least quarterly as to the appropriateness of placement in the facility.
 - (11) The facility shall ensure that no person on the grounds of race, color, national origin, or handicap, will be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in

(Rule 1200-8-25-.05, continued)

the provision of any care or service of the facility. The facility shall protect the civil rights of residents under the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.

- (12) Facilities utilizing secured units must be able to annually provide survey staff with twelve (12) months of the following performance information specific to the secured unit and its residents:
- (a) Documentation that each secured resident has been evaluated by an interdisciplinary team consisting of at least a physician, a social worker, a registered nurse, and a family member (or patient care advocate) prior to admittance to the unit;
 - (b) Ongoing and up-to-date documentation of quarterly review by each resident's interdisciplinary team as to the appropriateness of placement in the secured unit;
 - (c) A current listing of the number of deaths and hospitalizations, with diagnoses, that have occurred on the unit;
 - (d) A current listing of all unusual incidents and/or complications on the unit;
 - (e) An up-to-date staffing pattern and staff ratios for the unit that is recorded on a daily basis. The staffing pattern must ensure that there is a minimum of one (1) attendant, awake, on duty, and physically located on the unit twenty-four (24) hours per day, seven (7) days per week, at all times;
 - (f) A formulated calendar of daily group activities scheduled, including a resident attendance record for the previous three (3) months;
 - (g) An up-to-date listing of any incidences of decubitus and/or nosocomial infections, including resident identifiers; and
 - (h) Documentation showing that 100% of the staff working on the unit receives and has received annual in-service training which shall include, but not be limited to, the following subject areas:
 - 1. Basic facts about the causes, progression and management of Alzheimer's Disease and related disorders;
 - 2. Dealing with dysfunctional behavior and catastrophic reactions in the residents;
 - 3. Identifying and alleviating safety risks to the resident;
 - 4. Providing assistance in the activities of daily living for the resident; and
 - 5. Communicating with families and other persons interested in the resident.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Administrative History: Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1998; effective February 8, 1999. Amendment filed February 15, 2000; effective April 30, 2000. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed May 24, 2004; effective August 7, 2004.

1200-8-25-.06 PERSONAL SERVICES.

- (1) Personal services must include protective care of the resident, responsibility for the safety of the resident when in the facility, daily awareness of the resident's whereabouts and the ability and readiness to intervene if crises arise.

(Rule 1200-8-25-.06, continued)

- (2) Medication shall be self-administered, or administered by a licensed professional operating within the scope of his/her license who is employed by the ACLF or a licensed home care organization.
- (3) Self-administration includes assistance in reading labels, opening dosage packaging, reminding residents of their medication, observing the resident while taking medication and checking the self-administered dose against the dosage shown on the prescription.
- (4) All medications shall be stored so that no resident can obtain another resident's medication.
- (5) All drugs and biologicals must be administered by, or under the supervision of, nursing or other personnel in accordance with federal and state laws and regulations, including applicable licensing requirements.
- (6) Residents shall be provided assistance, if needed, in all activities of daily living.
- (7) The ACLF shall provide arrangements for laundry of linens for the home and for residents' clothing.
- (8) Appropriate separate storage areas for soiled linen and residents' clothing shall be provided.
- (9) Clean linen shall be maintained in sufficient quantity to provide for the needs of the residents. Linens shall be changed whenever necessary.
- (10) The ACLF must have organized dietary services that are directed and staffed by adequate qualified personnel. An ACLF may contract with an outside food management company if the company has a dietitian who serves the facility on a full-time, part-time, or consultant basis, and if the company maintains at least the minimum standards specified in this section and provides for constant liaison with the facility for recommendations on dietetic policies affecting resident treatment.
- (11) The ACLF must have an employee who:
 - (a) Serves as director of the food and dietetic service;
 - (b) Is responsible for the daily management of the dietary services and staff training; and
 - (c) Is qualified by experience or training.
- (12) There must be a qualified dietitian, full time, part-time, or on a consultant basis.
- (13) Menus must meet the needs of the residents.
 - (a) Therapeutic diets must be prescribed by the practitioner or practitioners responsible for the care of the residents.
 - (b) Nutritional needs must be met in accordance with recognized dietary practices and in accordance with orders of the practitioner or practitioners responsible for the care of the residents.
 - (c) A current therapeutic diet manual approved by the dietitian must be readily available to all facility personnel.
 - (d) Menus shall be planned one week in advance.
- (14) Residents shall be provided at least three (3) meals per day. The meals shall constitute an acceptable and/or prescribed diet. There shall be no more than fourteen (14) hours between the evening and

(Rule 1200-8-25-.06, continued)

morning meals. All food served to the residents shall be of good quality and variety, sufficient quantity, attractive and at safe temperatures. Prepared foods shall be kept hot (140°F. or above) or cold (41°F. or less). The food must be adapted to the habits, preferences and physical abilities of the residents. Additional nourishment and/or snacks shall be provided to patients with special dietary needs or upon request.

- (15) Sufficient food provision capabilities and dining space shall be provided.
- (16) A forty-eight (48) hour supply of food shall be maintained and properly stored at all times.
- (17) Appropriate equipment and utensils for cooking and serving food shall be provided in sufficient quantity to serve all residents and must be in good repair.
- (18) The kitchen shall be maintained in a clean and sanitary condition.
- (19) Equipment, utensils and dishes shall be washed and sanitized after each use.
- (20) A suitable and comfortable furnished area shall be provided in the facility for activities and family visits. Furnishings shall include a calendar and a functioning television set, radio, and clock.
- (21) The facility shall provide current newspapers, magazines or other reading materials.
- (22) The facility must have a telephone accessible to all residents to make and receive personal telephone calls twenty-four (24) hours per day.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed January 7, 2000; effective March 22, 2000.

1200-8-25-.07 BUILDING STANDARDS.

- (1) The facility must be constructed, arranged and maintained to ensure the safety of the residents.
- (2) The condition of the physical plant and the overall home environment must be developed and maintained in such a manner that the safety and well being of residents are assured.
- (3) After the application and licensure fees have been submitted, the building construction plans must be submitted to the department. All new facilities shall conform to the 1999 edition of the Standard Building Code (excluding Chapter I, Administration and Chapter 11, Handicapped Accessibility), the handicap code as required by T.C.A. §68-18-204(a), the most recent edition of the ASHRAE Handbook of Fundamentals, the 2000 edition of the National Fire Protection Code (NFPA), NFPA 1 including Annex A and the 1999 National Electrical Code. When referring to height, area or construction type, the Standard Building Code shall prevail. All new and existing facilities are subject to the requirements of the Americans with Disabilities Act (A.D.A.). Where there are conflicts between requirements in the above listed codes and regulations and provisions of this chapter, the most restrictive shall apply.
- (4) After the application and license fee have been submitted, building plans and specifications must be submitted and approved by the department when:
 - (a) A new facility is to be constructed;
 - (b) A building, not previously licensed as a home for the aged, is proposed as a location for such an ACLF;

(Rule 1200-8-25-.07, continued)

- (c) Any renovation that increases the number of beds is proposed;
 - (d) Any addition to an existing structure is proposed; and,
 - (e) Any renovation that involves fifty percent (50%) or more of the existing structure, whatever the size of the facility, is proposed.
- (5) No new ACLF shall hereafter be constructed, nor shall major alterations be made to existing ACLF's, or change in facility type be made without prior written approval, and unless in accordance with plans and specifications approved in advance by the department. Before any new ACLF is licensed or before any alteration or expansion of a licensed ACLF can be approved, the applicant must furnish two (2) complete sets of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.
- (6) In the event that submitted materials do not appear to satisfactorily comply, the department shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.
- (7) Notice of satisfactory review from the department constitutes compliance with this requirement if construction begins within one hundred eighty (180) days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.
- (8) With the submission of plans the facility shall specify the evacuation capabilities of the residents as defined in Chapter 32 of the Life Safety Code. This declaration will determine the design and construction requirements of the facility.
- (9) The codes in effect at the time of submittal of preliminary plans and specifications, as defined by these regulations, shall be the codes to be used throughout the project.
- (10) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot ($1/8'' = 1'$), and shall show the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require. These plans shall be prepared by an architect or engineer licensed to practice in the State of Tennessee. The plans shall contain a certificate signed by the architect or engineer that to the best of his or her knowledge or belief the plans conform to all applicable codes.
- (a) Phased construction plans shall be forwarded to the appropriate section of the department for review. After receipt of approval of phased construction plans, the owner may proceed with site grading and foundation work prior to receipt of approval of final plans and specifications with the understanding that such work is at the owner's risk and without assurance that final approval of final plans and specifications shall be granted. Final plans and specifications shall be submitted for review and approval. Final approval must be received before proceeding beyond foundation work.
 - (b) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (11) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.

(Rule 1200-8-25-.07, continued)

- (12) Final review of plans and specifications shall be acknowledged in writing with copies sent to the architect and the owner, manager or other executive of the facility. The distribution of such review may be modified at the discretion of the department.
- (13) All construction shall be executed in accordance with the approved plans and specifications.
- (14) Drawings and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical and Electrical.
- (15) Architectural drawings shall include:
 - (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
 - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
 - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units;
 - (d) The elevation of each facade;
 - (e) The typical sections throughout the building;
 - (f) The schedule of finishes;
 - (g) The schedule of doors and windows;
 - (h) Roof plans;
 - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel must be indicated for elevators; and,
 - (j) Code analysis.
- (16) Structural drawings shall include:
 - (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members; and,
 - (b) Schedules of beams, girders and columns.
- (17) Mechanical drawings shall include:
 - (a) Specifications which show the complete heating, ventilating, fire protection and air conditioning systems;
 - (b) Water supply, sewerage and HVAC piping systems;
 - (c) Pressure relationships which shall be shown on all floor plans;

(Rule 1200-8-25-.07, continued)

- (d) Heating, ventilating, HVAC piping and air conditioning systems with all related piping and auxiliaries, if any, to provide a satisfactory installation;
 - (e) Water supply, sewage and drainage with all lines, risers, catchbasins, manholes and cleanouts clearly indicated as to location, size, capacities, etc., and location and dimensions of septic tank and disposal field; and
 - (f) Color coding to show clearly supply, return and exhaust systems.
- (18) Electrical drawings shall include:
- (a) A certification that all electrical work and equipment are in compliance with all applicable local codes and laws, and that all materials are currently listed by recognized testing laboratories; and,
 - (b) All electrical wiring, outlets, riser diagrams, switches, special electrical connections, electrical service entrance with service switches, service feeders and characteristics of the light and power current, and transformers when located within the building.
- (19) Final working drawings and specifications shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. The working drawings and specifications shall be complete and adequate for contract purposes. One (1) set of final plans shall be submitted to the department, after final approval is given but prior to occupancy, in such a form as approved by the department.
- (20) No system of water supply, plumbing, sewage, garbage or refuse disposal shall be installed nor shall any existing system be materially altered or extended until complete plans and specifications for the installation, alteration or extension have been submitted to the department and show that all applicable codes have been met and necessary approval has been obtained.
- (a) Before the facility is used, the water supply system shall be approved by the Tennessee Department of Environment and Conservation.
 - (b) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and handwashing facilities shall be between 105°F. and 115°F.
- (21) Sewage shall be discharged into a municipal system or approved package system where available; otherwise, the sewage shall be treated and disposed of in a manner of operation approved by the Department of Environment and Conservation and shall comply with existing codes, ordinances and regulations which are enforced by cities, counties or other areas of local political jurisdiction.
- (22) A minimum of eighty (80) square feet of bedroom space must be provided each resident. No bedroom shall have more than two (2) beds. Privacy screens or curtains must be provided and used when requested by the resident.
- (23) Living room and dining areas capable of accommodating all residents shall be provided.
- (24) Each toilet, lavatory, bath or shower shall serve no more than six (6) persons. Grab bars and non-slip surfaces shall be installed at tubs and showers.
- (25) General lighting and night lighting shall be provided for each resident. Night lighting shall be equipped with emergency power.
- (26) Corridors shall be lighted at all times, to a minimum of one foot candle.

(Rule 1200-8-25-.07, continued)

- (27) Construction, equipment and installation shall comply with standards specified in PHS Publication No. 934, "Food Service Manual."
- (28) A negative air pressure shall be maintained in the soiled utility area, toilet room, janitor's closet, dishwashing and other such soiled spaces, and a positive air pressure shall be maintained in all clean areas including, but not limited to, clean linen rooms and clean utility rooms.
- (29) The physical environment shall be maintained in a safe, clean and sanitary manner.
 - (a) Any condition on the facility site conducive to the harboring or breeding of insects, rodents or other vermin shall be prohibited. Chemical substances of a poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.
 - (b) The building shall not become overcrowded with a combination of the facility's residents and other occupants.
 - (c) Each resident bedroom shall contain a chair, bed, mattress, springs, linens, chest of drawers and wardrobe or closet space, either provided by the facility or by the resident if the resident prefers. All furniture provided by the resident must meet NFPA. All resident's clothing must be maintained in good repair and suitable for the use of elderly persons.
 - (d) Each resident's room shall have a door that opens directly to the outside or a corridor which leads directly to an exit door.
 - (e) The building and its heating, cooling, plumbing and electrical systems shall be maintained in good repair and a clean condition at all times.
 - (f) Temperatures in residents' rooms and common areas shall not be less than 65°F. and no more than 85°F.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed November 25, 1999; effective February 8, 1999. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed February 18, 2003; effective May 4, 2003.

1200-8-25-.08 LIFE SAFETY.

- (1) Any ACLF which complies with the required applicable building and fire safety regulations at the time the board adopts new codes or regulations will, so long as such compliance is maintained (either with or without waivers of specific provisions), be considered to be in compliance with the requirements of the new codes or regulations.
- (2) All fires which result in a response by the local fire department shall be reported to the department within five (5) days. The report shall contain sufficient information to ascertain the nature and location of the fire, its probable cause and any injuries incurred by any person or persons as a result of the fire. Initial reports by the facility may omit the name(s) of resident(s) and parties involved, however, should the department find the identities of such persons to be necessary to an investigation, the facility shall provide such information.
- (3) Residents who cannot evacuate within thirteen (13) minutes may be retained in the facility so long as such residents are retained in designated areas in accordance with Chapter 18 of the NFPA 2001

(Rule 1200-8-25-.08, continued)

Edition of the Life Safety Code and Institutional Unrestrained Occupancy of the Standard Building Code.

- (4) Flammable liquids shall be stored in approved containers and stored away from the living areas of the facility.
- (5) Open flame and portable space heaters shall not be permitted in the facility.
- (6) All heaters shall be guarded and spaced to prevent ignition of combustible material and accidental burns. The guard shall not have a surface temperature greater than 120°F.
- (7) Fireplaces and/or fireplace inserts may be used only if provided with guards or screens which are secured in place. Fireplaces and chimneys shall be inspected and cleaned annually and verified documentation shall be maintained.
- (8) Doors to residents' rooms shall not be louvered.
- (9) All electrical equipment shall be maintained in good repair and in safe operating condition.
- (10) Electrical cords shall not be run under rugs or carpets.
- (11) The electrical systems shall not be overloaded. Powerstrips must be equipped with circuit breakers. Extension cords shall not be used.
- (12) All facilities must have electrically-operated smoke detectors with battery back-up power operating at all times in, at least, sleeping rooms, day rooms, corridors, laundry room, and any other hazardous areas.
- (13) Fire drills shall be held monthly. There shall be one fire drill per quarter during sleeping hours. There shall be a written report documenting the evaluation of each drill and the action recommended or taken for any deficiencies found. Records which document and evaluate these drills must be maintained for at least three (3) years.
- (14) Fire extinguishers, complying with NFPA 10, shall be provided and mounted so they are accessible to all residents in the kitchen, laundries and at all exits. Extinguishers in the kitchen and laundries shall be a minimum of 2-A:10-B:C and an extinguisher with a rating of 20-A shall be adjacent to every hazardous area. The minimum travel distance shall not exceed fifty (50) feet between the extinguishers.
- (15) Smoking and smoking materials shall be permitted only in designated areas under supervision. Ashtrays must be provided wherever smoking is permitted. Smoking in bed is prohibited. The facility shall have written policies and procedures for smoking within the facility which shall designate a room or rooms to be used exclusively for residents who smoke. The designated smoking room or rooms shall not be the dining room or activity room.
- (16) Corridors and exit doors shall be kept clear of equipment, furniture and other obstacles at all times. There shall be a clear passage at all times from the exit doors to a safe area.
- (17) Trash and other combustible waste shall not be allowed to accumulate within the facility and shall be stored in appropriate containers with tight-fitting lids.
- (18) All safety equipment shall be maintained in good repair and in a safe operating condition.

(Rule 1200-8-25-.08, continued)

- (19) Janitorial supplies shall not be stored in the kitchen, food storage area, dining area or resident accessible areas.
- (20) In all licensed facilities, clear corridor widths shall be at least forty-four (44) inches. Existing facility corridors shall be at least thirty-six (36) inches wide.
- (21) Floor and dryer vents shall be cleaned as frequently as needed to prevent accumulation of lint, soil and dirt.
- (22) Emergency telephone numbers must be posted near a telephone accessible to the residents.
- (23) Combustible finishes and furnishings shall not be used.
- (24) No smoking signs shall be posted in areas where oxygen is used or stored.
- (25) Resident rooms shall always be capable of being unlocked by the resident.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed January 7, 2000; effective March 22, 2000. Amendment filed February 18, 2003; effective May 4, 2003.

1200-8-25-.09 INFECTIOUS AND HAZARDOUS WASTE.

- (1) Each ACLF must develop, maintain and implement written policies and procedures for the definition and handling of its infectious waste. These policies and procedures must comply with the standards of this section.
- (2) The following waste shall be considered to be infectious waste:
 - (a) Waste contaminated by residents who are isolated due to communicable disease, as provided in the U.S. Centers for Disease Control “Guidelines for Isolation Precautions in Hospitals”;
 - (b) Cultures and stocks of infectious agents including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;
 - (c) Waste human blood and blood products such as serum, plasma, and other blood components;
 - (d) Pathological waste, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy;
 - (e) All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) used in resident care or which have come into contact with infectious agents during use in medical, research, or industrial laboratories;
 - (f) Other waste determined to be infectious by the facility in its written policy.
- (3) Infectious and hazardous waste must be segregated from other waste at the point of generation (i.e., the point at which the material becomes a waste) within the facility.
- (4) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal.

(Rule 1200-8-25-.09, continued)

Packaging must be selected and utilized for the type of waste the package will contain, how the waste will be treated and disposed, and how it will be handled and transported, prior to treatment and disposal.

- (a) Contaminated sharps must be directly placed in leakproof, rigid, and puncture-resistant containers which must then be tightly sealed.
 - (b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of infectious waste must be conspicuously identified. Packages containing infectious waste which pose additional hazards (e.g., chemical, radiological) must also be conspicuously identified to clearly indicate those additional hazards.
 - (c) Reusable containers for infectious waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.
 - (d) Opaque packaging must be used for pathological waste.
- (5) After packaging, waste must be handled and transported by methods ensuring containment and preservation of the integrity of the packaging, including the use of secondary containment where necessary. Plastic bags of infectious waste must be transported by hand.
- (6) Waste must be stored in a manner which preserves the integrity of the packaging, inhibits rapid microbial growth and putrefaction, and minimizes the potential of exposure or access by unknowing persons.
- (a) Waste must be stored in a manner and location which affords protection from animals, precipitation, wind, and direct sunlight, does not present a safety hazard, does not provide a breeding place or food source for insects or rodents, and does not create a nuisance.
 - (b) Pathological waste must be promptly treated, disposed of, or placed into refrigerated storage.
- (7) In the event of spills, ruptured packaging, or other incidents where there is a loss of containment of waste, the facility must ensure that proper actions are immediately taken to:
- (a) Isolate the area from the public and all except essential personnel;
 - (b) To the extent practicable, repackage all spilled waste and contaminated debris in accordance with the requirements of paragraph 6 of this section;
 - (c) Sanitize all contaminated equipment and surfaces according to written policies and procedures which specify how this will be done appropriately; and,
 - (d) Complete an incident report and maintain a copy on file.
- (8) Except as provided otherwise in this rule a facility must treat or dispose of infectious waste by one or more of the methods specified in this paragraph.
- (a) A facility may treat infectious waste in an on-site sterilization or disinfection device, or in an incinerator or a steam sterilizer, which has been designed, constructed, operated and maintained so that infectious waste treated in such a device is rendered non-infectious and is, if applicable, authorized for that purpose pursuant to current rules of the Department of Environment and Conservation. A valid permit or other written evidence of having complied with the Tennessee Air Pollution Control Regulations shall be available for review, if required. Each sterilizing or

(Rule 1200-8-25-.09, continued)

disinfection cycle must contain appropriate indicators to assure that conditions were met for proper sterilization or disinfection of materials included in the cycle, and appropriate records kept. Proper operation of such devices must be verified at least monthly, and records of the monthly verifications shall be available for review. Waste that contains toxic chemicals that would be volatilized by steam must not be treated in steam sterilizers. Infectious waste that has been rendered to carbonized or mineralized ash shall be deemed non-infectious. Unless otherwise hazardous and subject to the hazardous waste management requirements of the current rules of the Department of Environment and Conservation, such ash shall be disposable as a (non-hazardous) solid waste under current rules of the Department of Environment and Conservation.

- (b) A facility may discharge liquid or semi-liquid infectious waste to the collection sewerage system of a wastewater treatment facility which is subject to a permit pursuant to *T.C.A. §§ 69-3-101, et seq.*, provided that such discharge is in accordance with any applicable terms of that permit and/or any applicable municipal sewer use requirements.
 - (c) Any health care facility accepting waste from another state must promptly notify the Department of Environment and Conservation, county, and city public health agencies, and must strictly comply with all applicable local, state and federal regulations.
- (9) The facility may have waste transported off-site for storage, treatment, or disposal. Such arrangements must be detailed in a written contract, available for review. If such off-site location is located within Tennessee, the facility must ensure that it has all necessary State and local approvals, and such approvals shall be available for review. If the off-site location is within another state, the facility must notify in writing all public health agencies with jurisdiction that the location is being used for management of the facility's waste. Waste shipped off-site must be packaged in accordance with applicable federal and state requirements. Waste transported to a sanitary landfill in this state must meet the requirements of current rules of the Department of Environment and Conservation.
- (10) Human anatomical remains which are transferred to a mortician for cremation or burial shall be exempt from the requirements of this rule.
- (11) All garbage, trash and other non-infectious waste shall be stored and disposed of in a manner that must not permit the transmission of disease, create a nuisance, provide a breeding place for insects and rodents, or constitute a safety hazard. All containers for waste shall be water tight, constructed of easily-cleanable material, and shall be kept on elevated platforms.

Authority: *T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. Administrative History: Original rule filed February 9, 1998; effective April 25, 1998.*

1200-8-25-.10 RECORDS AND REPORTS.

- (1) An individual resident record and a complete medical record, if indicated, shall be maintained for each resident in the ACLF. Personal information shall be confidential and shall not be disclosed, except to the resident, the department and others with written authorization from the resident. These records shall be retained for three (3) years after the resident is transferred or discharged.
- (2) A current, complete resident record and a complete medical record, if indicated, shall be maintained for each resident in the facility. The resident record shall include:
 - (a) Name, Social Security Number, veteran status and number, marital status, age, sex, previous address and any health insurance provider and number, including Medicare and/or Medicaid numbers;

(Rule 1200-8-25-.10, continued)

- (b) Name, address and telephone number of next of kin, legal guardian and/or any other person identified by the resident to contact on his/her behalf;
 - (c) Name, address and telephone number of any person or agency providing additional services to the resident;
 - (d) Date of admission, transfer, discharge and any new forwarding address;
 - (e) Name and address of the resident's preferred physician, hospital, pharmacist and nursing home, and any other instructions from the resident to be followed in case of emergency;
 - (f) Record of all monies and other valuables entrusted to the ACLF for safekeeping, with appropriate updates;
 - (g) Health information including all current prescriptions, major changes in resident's habits or health status, results of physician's visits, and any health care instructions; and,
 - (h) A copy of the admission agreement, signed and dated by the resident, including advance directives, DNR Order, Durable Power of Attorney, or living will, when applicable, and made available upon request to the facility.
- (3) For those residents who require health care services, a medical record will be maintained, regardless of whether such services are rendered by facility staff or by arrangement with an outside source. The facility will develop a policy with each outside source to obtain up-to-date progress notes in a timely manner on each resident in its care. The medical record portion of the resident record shall include at least the following, in addition to the information required in (2)(e) and (g) above:
- (a) Identification data;
 - (b) Medical history; including a physician's summary of the resident's medical condition at the time of admission;
 - (c) Resident's initial health care assessment, and subsequent assessments;
 - (d) Nursing records and progress notes from facility staff and/or those from an outside source;
 - (e) Treatment records;
 - (f) Physician's diagnostic, medication and therapeutic orders;
 - (g) Health care services plans addressing resident's medical care needs;
 - (h) Medication administration records; and,
 - (i) A copy of the completed Alzheimer quarterly reviews.
- (4) Unusual events shall be reported by the facility to the Department of Health in a format designed by the Department within seven (7) business days of the date of the identification of the abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury to a patient.
- (a) The following represent circumstances that could result in an unusual event that is an unexpected occurrence or accident resulting in death, life threatening or serious injury to a

(Rule 1200-8-25-.10, continued)

patient, not related to a natural course of the patient's illness or underlying condition. The circumstances that could result in an unusual event include, but are not limited to:

1. medication errors;
2. aspiration in a non-intubated patient related to conscious/moderate sedation;
3. intravascular catheter related events including necrosis or infection requiring repair or intravascular catheter related pneumothorax;
4. volume overload leading to pulmonary edema;
5. blood transfusion reactions, use of wrong type of blood and/or delivery of blood to the wrong patient;
6. perioperative/periprocedural related complication(s) that occur within 48 hours of the operation or the procedure, including a procedure which results in any new central neurological deficit or any new peripheral neurological deficit with motor weakness;
7. burns of a second or third degree;
8. falls resulting in radiologically proven fractures, subdural or epidural hematoma, cerebral contusion, traumatic subarachnoid hemorrhage, and/or internal trauma, but does not include fractures resulting from pathological conditions;
9. procedure related incidents, regardless of setting and within thirty (30) days of the procedure and includes readmissions, which include:
 - (i) procedure related injury requiring repair or removal of an organ;
 - (ii) hemorrhage;
 - (iii) displacement, migration or breakage of an implant, device, graft or drain;
 - (iv) post operative wound infection following clean or clean/contaminated case;
 - (v) any unexpected operation or reoperation related to the primary procedure;
 - (vi) hysterectomy in a pregnant woman;
 - (vii) ruptured uterus;
 - (viii) circumcision;
 - (ix) incorrect procedure or incorrect treatment that is invasive;
 - (x) wrong patient/wrong site surgical procedure;
 - (xi) unintentionally retained foreign body;
 - (xii) loss of limb or organ, or impairment of limb if the impairment is present at discharge or for at least two (2) weeks after occurrence;
 - (xiii) criminal acts;

(Rule 1200-8-25-.10, continued)

- (xiv) suicide or attempted suicide;
 - (xv) elopement from the facility;
 - (xvi) infant abduction, or infant discharged to the wrong family;
 - (xvii) adult abduction;
 - (xviii) rape;
 - (xix) patient altercation;
 - (xx) patient abuse, patient neglect, or misappropriation of resident/patient funds;
 - (xxi) restraint related incidents; or
 - (xxii) poisoning occurring within the facility.
- (b) Specific incidents that might result in a disruption of the delivery of health care services at the facility shall also be reported to the department, on the unusual event form, within seven (7) days after the facility learns of the incident. These specific incidents include the following:
1. strike by the staff at the facility;
 2. external disaster impacting the facility;
 3. disruption of any service vital to the continued safe operation of the facility or to the health and safety of its patients and personnel; and
 4. fires at the facility which disrupt the provision of patient care services or cause harm to patients or staff, or which are reported by the facility to any entity, including but not limited to a fire department, charged with preventing fires.
- (c) For health services provided in a “home” setting, only those unusual events actually witnessed or known by the person delivering health care services are required to be reported.
- (d) Within forty (40) days of the identification of the event, the facility shall file with the department a corrective action report for the unusual event reported to the department. The department’s approval of a Corrective Action Report will take into consideration whether the facility utilized an analysis in identifying the most basic or causal factor(s) that underlie variation in performance leading to the unusual event by (a) determining the proximate cause of the unusual event, (b) analyzing the systems and processes involved in the unusual event, (c) identifying possible common causes, (d) identifying potential improvements, and (e) identifying measures of effectiveness. The corrective action report shall either: (1) explain why a corrective action report is not necessary; or (2) detail the actions taken to correct any error identified that contributed to the unusual event or incident, the date the corrections were implemented, how the facility will prevent the error from recurring in the future and who will monitor the implementation of the corrective action plan.
- (e) The department shall approve in writing, the corrective action report if the department is satisfied that the corrective action plan appropriately addresses errors that contributed to the unusual event and takes the necessary steps to prevent the recurrence of the errors. If the department fails to approve the corrective action report, then the department shall provide the

(Rule 1200-8-25-.10, continued)

facility with a list of actions that the department believes are necessary to address the errors. The facility shall be offered an informal meeting with the Commissioner or the Commissioner's representative to attempt to resolve any disagreement over the corrective action report. If the department and the facility fail to agree on an appropriate corrective action plan, then the final determination on the adequacy of the corrective action report shall be made by the Board after a contested case hearing.

- (f) The event report reviewed or obtained by the department shall be confidential and not subject to discovery, subpoena or legal compulsion for release to any person or entity, nor shall the report be admissible in any civil or administrative proceeding other than a disciplinary proceeding by the department or the appropriate regulatory board. The report is not discoverable or admissible in any civil or administrative action except that information in any such report may be transmitted to an appropriate regulatory agency having jurisdiction for disciplinary or license sanctions against the impacted facility. The department must reveal upon request its awareness that a specific event or incident has been reported.
 - (g) The department shall have access to facility records as allowed in Title 68, Chapter 11, Part 3. The department may copy any portion of a facility medical record relating to the reported event unless otherwise prohibited by rule or statute. This section does not change or affect the privilege and confidentiality provided by T.C.A. §63-6-219.
 - (h) The department, in developing the unusual event report form, shall establish an event occurrence code that categorizes events or specific incidents by the examples set forth above in (a) and (b). If an event or specific incident fails to come within these examples, it shall be classified as "other" with the facility explaining the facts related to the event or incident.
 - (i) This does not preclude the department from using information obtained under these rules in a disciplinary action commenced against a facility, or from taking a disciplinary action against a facility. Nor does this preclude the department from sharing such information with any appropriate governmental agency charged by federal or state law with regulatory oversight of the facility. However, all such information must at all times be maintained as confidential and not available to the public. Failure to report an unusual event, submit a corrective action report, or comply with a plan of correction as required herein may be grounds for disciplinary action pursuant to T.C.A. §68-11-207.
 - (j) The affected patient and/or the patient's family, as may be appropriate, shall also be notified of the event or incident by the facility.
 - (k) During the second quarter of each year, the Department shall provide the Board an aggregate report summarizing by type the number of unusual events and incidents reported by facilities to the Department for the preceding calendar year.
 - (l) The Department shall work with representatives of facilities subject to these rules, and other interested parties, to develop recommendations to improve the collection and assimilation of specific aggregate health care data that, if known, would track health care trends over time and identify system-wide problems for broader quality improvement. The goal of such recommendations should be to better coordinate the collection of such data, to analyze the data, to identify potential problems and to work with facilities to develop best practices to remedy identified problems. The Department shall prepare and issue a report regarding such recommendations.
- (5) The facility shall retain legible copies of the following records and reports for thirty-six (36) months following their issuance. The reports shall be maintained in a single file, and shall be made available for inspection during normal business hours to any resident who requests to view them. Each resident

(Rule 1200-8-25-.10, continued)

and each person assuming any financial responsibility for a resident must be fully informed, before admission, of the existence of the reports in the ACLF and given the opportunity to inspect the file before entering into any monetary agreement with the facility.

- (a) Local fire safety inspections.
 - (b) Local building code inspections, if any.
 - (c) Department licensure and fire safety inspections and surveys.
 - (d) Orders of the Commissioner or Board, if any.
 - (e) Maintenance records of all safety equipment.
- (6) The Joint Annual Report of Assisted Care Living Facilities shall be filed with the department. The forms shall be furnished and mailed to each ACLF by the department each year and the forms must be completed and returned to the department as required.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-207, 68-11-209, 68-11-210, 68-11-211, and 68-11-213. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed April 11, 2003; effective June 25, 2003.

1200-8-25-.11 RESIDENT RIGHTS. Each resident has at least the following rights:

- (1) To privacy in treatment and personal care;
- (2) To be free from mental and physical abuse. Should this right be violated, the facility must notify the department and the Tennessee Department of Human Services, Adult Protective Services at 1-888-277-8366;
- (3) To refuse treatment. The resident must be informed of the consequences of that decision, the refusal and its reason must be reported to the physician and documented in the resident's record;
- (4) To have his or her file kept confidential and private. Written consent by the resident must be obtained prior to release of information except to persons authorized by law;
- (5) To be fully informed of the Resident's Rights, of any policies and procedures governing resident conduct, any services available in the home and the schedule of all fees for all services;
- (6) To participate in drawing up the terms of the admission agreement, including providing for the resident's preferences for physician care, hospitalization, nursing home care, acquisition of medication, emergency plans and funeral arrangements;
- (7) To be given thirty (30) days written notice prior to transfer or discharge, except when ordered by any physician because a higher level of care is required;
- (8) To voice grievances and recommend changes in policies and services of the facility with freedom from restraint, interference, coercion, discrimination or reprisal. The resident shall be informed of procedures for registering complaints confidentially and to voice grievances;
- (9) To manage his or her personal financial affairs, including the right to keep and spend his or her own money. If the resident requests assistance from the home in managing his or her personal financial affairs, the request must be in writing and may be terminated by the resident at any time. The ACLF must separate such monies from the home's operating funds and all other deposits or expenditures,

(Rule 1200-8-25-.11, continued)

submit a written accounting to the resident at least quarterly, and immediately return the balance upon transfer or discharge. A current copy of this report shall be maintained in the resident's file maintained by the licensee;

- (10) To be treated with consideration, respect and full recognition of his or her dignity and individuality;
- (11) To be accorded privacy for sleeping and for storage space for personal belongings;
- (12) To have free access to day rooms, dining and other group living or common areas at reasonable hours and to come and go from the facility, unless such access infringes upon the rights of other residents;
- (13) To wear his or her own clothes, to keep and use his or her own toilet articles and personal possessions;
- (14) To send and receive unopened mail;
- (15) To associate and communicate privately with persons of his or her choice, including receiving visitors at reasonable hours;
- (16) To participate, or to refuse to participate, in community activities; including cultural, educational, religious, community service, vocational and recreational activities;
- (17) To not be required to perform services for the home. The resident and licensee may mutually agree, in writing, for the resident to perform certain activities or services as part of the fee for his or her stay; and
- (18) To execute, modify, or rescind a Living Will, Do-Not-Resuscitate Order or advance directive.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998.

1200-8-25-.12 POLICIES AND PROCEDURES FOR HEALTH CARE DECISION-MAKING FOR INCOMPETENT RESIDENTS.

- (1) Pursuant to this Rule, each assisted-care living facility shall maintain and establish policies and procedures governing the designation of a health care decision-maker for making health care decisions for a resident who is incompetent or who lacks decision-making capacity, including but not limited to allowing the withholding of CPR measures from individual residents. The policies and procedures for determining when resuscitative services may be withheld must respect the resident's rights of self-determination. The assisted-care living facility must inform the resident and/or the resident's health care decision-maker of these policies and procedures upon admission or at such time as may be appropriate.
- (2) The assisted-care living facility should identify, after consultation with the family or responsible party, the name of the health care decision-maker for a resident who is incompetent or who lacks decision-making capacity, who will be responsible, along with the treating physician, for making health care decisions, including but not limited to deciding on the issuance of a DNR order.
- (3) Health care decisions made by a health care decision-maker must be made in accord with the resident's individual health care instructions, if any, and other wishes to the extent known to the health care decision-maker. If the resident's specific wishes are not known, decisions are to be made in accord with the health care decision-maker's determination of the resident's desires or best interests in light of the personal values and beliefs of the resident to the extent they are known.

(Rule 1200-8-25-.12, continued)

- (4) In the case of a resident who lacks decision-making capacity and who has not appointed an individual to act on his or her behalf pursuant to an advance directive and who does not have a court-appointed guardian or conservator with health care decision-making authority, documentation in the medical record must identify the resident's surrogate to make health care decisions on the resident's behalf.
 - (a) The resident's surrogate shall be an adult who:
 1. has exhibited special care and concern for the resident, who is familiar with the resident's personal values, and who is reasonably available; and
 2. consideration shall if possible be given in order of descending preference for service as a surrogate to:
 - (i) the resident's spouse,
 - (ii) the resident's adult child,
 - (iii) the resident's parent,
 - (iv) the resident's adult sibling,
 - (v) any other adult relative of the resident, or
 - (vi) any other adult who satisfies the requirement under part 1 above.
 - (b) If none of the individuals eligible to act as a surrogate under subparagraph (a), is reasonably available, the resident's treating physician may make health care decisions for the resident after the treating physician either (i) consults with and obtains the recommendations of an institutional ethics committee, or (ii) consults with a second physician who (A) is not directly involved in the resident's health care; (B) either (i) does not serve in a capacity of decision-making or influence or responsibility over the treating physician, or (ii) for whom the treating physician does not exert decision-making, influence or responsibility; and (C) concurs with the treating physician's decision. For the purposes of this rule, "institutional ethics committee" means a committee of a licensed health care institution which renders advice concerning ethical issues involving health care.
- (5) All residents shall be presumed as having consented to CPR unless there is documentation in the medical record that the resident has specified that a DNR order be written. DNR orders may be written to exclude any portion of the CPR measures deemed to be unacceptable.
- (6) In the case of an incompetent resident who has appointed an attorney in fact to act on his or her behalf pursuant to an advance directive or who has a court-appointed guardian or conservator with health care decision-making authority, documentation in the medical record must reflect that the attorney in fact, guardian or conservator has specified that a DNR order be written. In the case of a resident who lacks decision-making capacity and who has not appointed an individual to act on his or her behalf pursuant to an advance directive and who does not have a court-appointed guardian or conservator with health care decision-making authority, documentation in the medical record must identify the resident's surrogate to make health care decisions on the resident's behalf, and reflect that the resident's surrogate and the resident's treating physician have mutually specified that a DNR order be written.
- (7) CPR may be withheld from the resident if in the judgment of the treating physician an attempt to resuscitate would be medically futile. Withholding and withdrawal of resuscitative services shall be regarded as identical for the purposes of these regulations.

(Rule 1200-8-25-.12, continued)

- (8) Procedures for periodic review of DNR orders must be established and maintained. The assisted-care living facility must have procedures for allowing revocation or amending DNR orders by the resident, the resident's health care decision-maker, or treating physician. Such change shall be documented in the medical record.
- (9) Any treating physician who refuses to enter a DNR order in accordance with provisions set forth above, or to comply with a DNR order, shall promptly advise the resident or the resident's health care decision-maker of this decision. The treating physician shall then:
 - (a) Make a good faith attempt to transfer the resident to another physician who will honor the DNR order; and,
 - (b) Permit the resident to obtain another physician.
- (10) Each assisted-care living facility shall establish, and set forth in writing, a mediation process to deal with any dispute regarding health care decisions, including DNR orders, or the determination of the health care decision-maker.
- (11) This rule does not alter any requirements imposed by state or federal law, where applicable, including Title 33, the mental health and developmental disabilities law.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-224.
Administrative History: Original rule filed February 9, 1998; effective April 25, 1998. Amendment filed April 28, 2003; effective July 12, 2003.

1200-8-25-.13 DISASTER PREPAREDNESS.

- (1) The administration of every facility shall have in effect and available for all supervisory personnel and staff, written copies of the following required disaster plans, for the protection of all persons in the event of fire and other emergencies for evacuation to areas of refuge and/or evacuation from the building. A detailed log with staff signatures of training received shall be maintained. All employees shall be trained annually as required in the following plans and shall be kept informed with respect to their duties under the plans. A copy of the plans shall be readily available at all times. Each of the following plans shall be exercised annually:
 - (a) Fire Safety Procedures Plan shall include:
 - 1. Minor fires;
 - 2. Major fires;
 - 3. Fighting the fire;
 - 4. Evacuation procedures; and
 - 5. Staff functions.
 - (b) Tornado/Severe Weather Procedures Plan shall include:
 - 1. Staff duties; and
 - 2. Evacuation procedures.

(Rule 1200-8-25-.13, continued)

- (c) Bomb Threat Procedures Plan:
 - 1. Staff duties;
 - 2. Search team, searching the premises;
 - 3. Notification of authorities;
 - 4. Location of suspicious objects; and,
 - 5. Evacuation procedures.
- (d) Flood Procedure Plan, if applicable:
 - 1. Staff duties;
 - 2. Evacuation procedures; and
 - 3. Safety procedures following the flood.
- (e) Severe Cold Weather and Severe Hot Weather Procedure Plans:
 - 1. Staff duties;
 - 2. Equipment failures;
 - 3. Evacuation procedures; and
 - 4. Emergency food service.
- (f) Earthquake Disaster Procedures Plan:
 - 1. Staff duties;
 - 2. Evacuation procedures;
 - 3. Safety procedures; and
 - 4. Emergency services.
- (2) All facilities shall participate in the Tennessee Emergency Management Agency local/county emergency plan on an annual basis. Participation includes filling out and submitting a questionnaire on a form to be provided by the Tennessee Emergency Management Agency. Documentation of participation must be maintained and shall be made available to survey staff as proof of participation.
- (3) For facilities which elect to have an emergency generator, the generator shall be designed to meet the facility's HVAC and essential needs and shall have a minimum of twenty-four (24) hours of fuel designed to operate at its rated load. This requirement shall be coordinated with the Disaster Preparedness Plan or with the local resources.
 - (a) All generators shall be exercised for thirty (30) minutes each month under full load, including automatic and manual transfer of equipment.

(Rule 1200-8-25-.13, continued)

- (b) The emergency generator shall be operated at the existing connected load and not on dual power, and a monthly log shall be maintained by the facility. The facility shall have trained staff familiar with the generator's operation.

Authority: T.C.A. §§4-5-202, 68-11-202, 68-11-204, 68-11-206, and 68-11-209. **Administrative History:** Original rule filed February 9, 1998; effective April 25, 1998.